

**Notic of Allowability**

Application N .

09/647,005

Examiner

Michael C. Miggins

Applicant(s)

DARRAS ET AL.

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/2/04.
2. ☒ The allowed claim(s) is/are 1-8 and 25-29.
3. ☒ The drawings filed on 26 September 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____             |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No. _____  | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                  |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|   | 9 <input type="checkbox"/> Other  |

### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

With regard to instant claim 1, the reason for allowance is applicant's recited container having a heterogeneous structure, comprising a material with a barrier effect and a polymer material, wherein the material with a barrier effect is an amorphous carbon material with a polymer tendency which is disposed as a coating on a substrate made of the polymer material, said amorphous carbon material with a polymer tendency contains CH, CH<sup>2</sup> and CH<sup>3</sup> bonds in the proportions of 15, 60 and 25, respectively, and the proportions of the electronic states sp<sup>3</sup>, sp<sup>2</sup> and sp are 53, 45 and 2 respectively. The prior art does not teach applicant's recited container.

The closest prior art, Nagahsima in view of Danzer et al., teach a container having a heterogeneous structure, comprising a material with a barrier effect and a polymer material, wherein the material with a barrier effect is an amorphous carbon material with a polymer tendency which is disposed as a coating on a substrate made of the polymer material. However, neither reference teaches or suggests said amorphous carbon material with a polymer tendency contains CH, CH<sup>2</sup> and CH<sup>3</sup> bonds in the proportions of 15, 60 and 25, respectively, and the proportions of the electronic states sp<sup>3</sup>, sp<sup>2</sup> and sp are 53, 45 and 2 respectively. Furthermore, one of ordinary skill in the art would not have been motivated, to provide the missing six values to arrive at applicant's claimed invention.

Newly cited references, Dorfman (U.S. Patent No. 6,080,470) and Veerasamy (U.S. Patent No. 6,303,226 B1) are cited herein. Dorfman describes various

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proportions for the  $sp^3$  and  $sp^2$  electronic states only (15-90 for  $sp^3$  and greater than 15% for  $sp^2$ , see column 22, lines 38-67) in a hard carbon material in a multi-layered structure. Veerasamy describes a hard diamond-like carbon with an  $sp^3$  content of at least about 35%, or 70%, or 80% (column 4, lines 41-58). However, neither reference discloses applicant's claimed amorphous carbon material with a polymer tendency contains CH,  $CH^2$  and  $CH^3$  bonds in the proportions of 15, 60 and 25, respectively, and the proportions of the electronic states  $sp^3$ ,  $sp^2$  and  $sp$  are 53, 45 and 2 respectively. Furthermore, one of ordinary skill in the art would not have been motivated, to provide the missing six values to arrive at applicant's claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

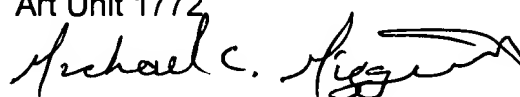
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is (571) 272-1494. The examiner can normally be reached on Monday-Friday; 1:30-10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael C. Miggins  
Examiner  
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A handwritten signature in black ink, appearing to read "Michael C. Miggins", with a stylized flourish at the end.

MCM  
December 22, 2004